

REMARKS

Entry of the amendments is respectfully requested. Claims 16-19 and 29, 30, 33, and 34 are pending in the application. Claims 16 and 29 have amended. Claims 1-15, 20-28, 31 and 32 have been withdrawn. Entry of these amendments and favorable reconsideration and allowance of this application are respectfully requested.

1. Rejections of the Claims

a. Indication of allowable subject matter

Applicants wish to thank the Examiner for the indication of claims 18-19 and 30 as containing allowable subject matter if rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph and to include all of the limitations of the base claim and any intervening claims.

b. Rejections under 35 U.S.C. § 112, second paragraph

Claims 16-19 and 29-30 stand rejected under § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. With respect to claims 16 and 29, the Examiner alleges that the phrase “rollers bourn by the shaft” is unclear and confusing, specifically with respect to the word “bourn”. Claims 16 and 29 are now currently amended to replace the word “bourn” with “borne” in order to correct the clear typographical error. With respect to claim 16, the Examiner alleges that the phrase “a front end” as used is confusing because it does not disclose whether it is referring to the rear link or front link’s front end. Claim 16 is now currently amended to further define “a

front end” as “a front end of the front link.” Claim 29 has been similarly amended without changing its scope.

In light of the amendments made to claims 16 and 29 discussed previously and the arguments made regarding those claims below, claims 16 and 29 are believed allowable. Claims 17-19 and 30 are dependent upon the currently amended claims 16 and 29. Accordingly, Applicants respectfully requests withdrawal of the rejections and allowance of claims 16-19 and 29-30.

c. Rejections under 35 U.S.C. § 102(b)

Claims 16-17 stand rejected under § 102(b) as being anticipated by U.S. Patent 2,667,026 to Ingram (“the Ingram patent”). The Applicants respectfully traverse this rejection because, as is discussed below, the Ingram patent does not disclose each and every element of the novel subject matter set forth in the claims. Therefore, reconsideration is in order and is respectfully requested.

Independent claim 16 recites a roller assembly for attachment to a lawnmower. The roller assembly includes a tow arm having first and second links. The first link has a rear end that is pivotally attached to a front end of the second link, and a front end configured to be supported at least indirectly on a frame of the lawnmower. The roller assembly further includes a shaft supported and at least indirectly coupled on the second link, and at least one roller disposed on the shaft. The roller assembly further includes a latch assembly that is selectively engageable to hold the tow arm in a position that holds the roller assembly in a raised, inoperative position in which the rollers are incapable of riding along a ground surface, wherein the latch assembly

includes a pin which is selectively movable between (a) a first position in which the latch assembly is disengaged to permit the roller assembly to drop to a lowered, operative position in which the rollers are capable of riding along the ground surface, and (b) a second position in which the latch assembly is engaged and the roller assembly is held in the raised, inoperative position.

In contrast, the Ingram patent discloses a pair of opposed mounting plates 14 that are adapted to receive the bolts of the lawnmower frame 10. The plates have a rear end that may be pivotally attached to a front end of a hangar arm 25 when a latch pin 20 is released. Ingram further discloses a shaft 30 that is supported near the rear end of the hangar arm. A roller 31 surrounds the shaft. The principle object of the Ingram patent is to simplify the raising and lowering of the cutting elements of a lawnmower in relation to the **ground-engaging roller** (Col. 1, lines 6-8). This is accomplished by longitudinally adjusting the position of the hangar arm.

The Ingram patent does not disclose, however, a latch assembly that is selectively engageable to hold the tow arm in a position that holds the roller assembly in a **raised, inoperative position** in which the rollers are incapable of riding along a ground surface. The screw 20 illustrated in the Ingram patent, and alleged by the Examiner to correspond to the claimed latch assembly pin, does not permit the roller assembly to be raised into an inoperative position, but rather merely adjusts the height of the rollers with respect to the cutting elements of the lawnmower. In light of the above arguments and those below, claim 16 is believed allowable. Accordingly, Applicants respectfully request allowance of claim 16.

Claim 17 is dependent upon independent claim 16 discussed previously and recites the roller assembly of claim 16 wherein the pin is a latch pin that is biased by a spring to the retracted position thereof. The latch pin is configured to selectively support the second link and rollers in a raised, inoperative position and a spring is disposed to bias the latch pin in a retracted position.

In contrast, the pin 26 disclosed in Ingram is not biased by the spring 22. Rather, the spring disclosed in Ingram biases the arm 25 towards the pin 26 (Col. 2, lines 32-34). As such, the operation of the spring disclosed in the Ingram patent does not perform in the same manner as the spring recited in claim 17. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of claim 17.

Claim 16 stands rejected under § 102(b) as being anticipated by U.S. Patent 5,586,604 to Postema (“the Postema patent”). The Applicants respectfully traverse this rejection because, as is discussed below, the Postema patent does not disclose each and every element of the novel subject matter set forth in the claims. Therefore, reconsideration is in order and is respectfully requested.

First and foremost, Postema relates not to a lawn striper for attachment to a lawnmower frame but to an aerator. The rejection is improper for this reason alone.

In addition, and in contrast to claim 16 discussed above, the Postema patent discloses a pivot plate 43 (first link) pivotally secured at one end to a latch bar 49 (rear link); a wheel

assembly 57 (rollers) secured to the pivot plate 43 by axle 56 (shaft); and a latch pin 52 that is secured within the latch bar 49 by use of a spacer 74, washers 76, and a nut 77. Unlike claim 16, however, Postema fails to disclose a shaft supported at least indirectly by a rear end of the rear link (latch bar 49). The Examiner alleges that shoulder bolt 71 in the Postema patent corresponds to the claimed shaft. Shoulder bolt 71, however, is actually supported on pivot plate 43, or the front link of the roller assembly. Furthermore, shoulder bolt 71 is not surrounded by wheels 54 at a portion as required by claim 16. In addition, while weighted wheels 54 surround axle 56, axle 56 is not supported, either directly or indirectly, by a rear end of the latch bar 49 alleged to correspond to the claimed rear link. Instead, axle 56 is supported on the pivot plate 43 alleged to correspond to the claimed front link. As such, the Postema patent fails to disclose each and every element of claim 16. In light of the above arguments, claim 16 is believed allowable. Accordingly, Applicants respectfully requests withdrawal of the rejection and allowance of claim 16.

d. Rejections under 35 U.S.C. § 103(a)

Claims 29 and 34 stand rejected under § 103(a) as being unpatentable over U.S. Patent 5,870,888 to Pugh (“the Pugh patent”), in view of U.S. Patent 3,382,356 to Eyth (“the Eyth patent”). The Applicants respectfully traverse this rejection. Therefore, reconsideration is in order and is respectfully requested.

Claim 29 recites a lawnmower comprising a motorized drive assembly, a cutter assembly housed by a cutter deck that is driven by the motorized drive assembly, a plurality of wheels, a

frame that supports the motorized drive assembly and cutter deck, and a roller assembly having a tow arm with front and rear links. The front end of the front link of the tow arm is attached to the lawnmower frame independently of the cutter deck. The front end of the front link is pivotally attached to a rear end of the rear link of the tow arm. The roller assembly further comprises a shaft supported at least indirectly by a rear end of the rear link of the tow arm and a plurality of rollers borne by the shaft and rollable along a ground surface. Finally, the roller assembly further comprises a latch assembly that is configured to be selectively engageable to hold the tow arm in a position that holds the roller assembly in a raised, inoperative position in which the rollers are incapable of riding along a ground surface. The latch assembly further includes a pin that is selectively movable between either a first position that allows the assembly to be lowered into an operative position where the rollers are capable of riding along the ground and a second position where the roller assembly is held in a raised, inoperative position.

The Examiner alleges that Pugh patent discloses a drive, cutter, deck, wheels, and frame (see fig. 3, ref 12, 35, 34), a tow arm front and rear links 14, a shaft and roller 10 pivotally attached to a rear end of the rear link 14, and a latch assembly 29 (Col. 3, lines 35-38). The Examiner further alleges that patent fails to disclose any details regarding a latching mechanism. The Examiner still further alleges that the Eyth patent suggests that it is known in the art to provide a latch pin for a latching mechanism. The Examiner is mistaken on multiple fronts.

First Pugh fails to disclose a tow arm having front and rear links as claimed. Instead, Pugh's roller assembly 10 is coupled to the lawnmower by a *single* link 14 at each side of the lawnmower.

Second, Pugh's link 14 is attached *directly* to the cutter deck 12 by a bolt 16 and, accordingly, is not coupled to the lawnmower frame independently of the cutter deck as recited in claim 29.

Third, it would not have been obvious to combine Pugh and Eyth as suggested by the Examiner.

Pugh discloses a latch assembly that uses a cable 20 that freely slides into collars 24 and 25 affixed to one side rod of the handle assembly 26 and the other end of cable 20 is attached to roller 10 at fitting 21. The roller is latched in its inoperative position by engaging a detent in a control box 29 with a control lever. The use of cable 20 in the manner described in Pugh makes it impractical to use a latch pin of the type disclosed in Eyth because there is no manner to use a latch pin to secure the cable disclosed in Pugh. Eyth's latch, on the other hand, is configured to secure a retainer plate 102 to a bracket 74 to set the angle of arm 54 of a lamp stand. In addition, and unlike in Pugh, the latch is used to adjust the position of the arm 54 between a number of operative positions and not to move it between operative and inoperative positions. This latch is entirely incompatible with not only the cable based latch disclosed in the Pugh patent, but also

with the support arm 14 and lawnmower handle 26 as a whole. Hence, there would have been no motivation to combine the references in the manner alleged by the Examiner.

In addition, Eyth is nonanalogous art that would not have been considered by one of ordinary skill in the art when evaluating the merits of the claimed invention. One of the critical subcomponents of the *Graham v. Deere* inquiry is to determine the scope and content of the prior art. Nonanalogous prior art cannot be relied upon to make a rejection under 35 U.S.C. §103(a). MPEP §2141.01(a). For a reference to be analogous art, that reference must either be in the same field of Applicants' endeavor or, if not, then it must be reasonably pertinent to the particular problem with which the inventor is concerned. MPEP §2141.01(a) and *In re Clay*, 23 USPQ2d 1051, 1060-61 (Fed. Cir. 1992). In the present case, Applicants' field of endeavor is lawn care equipment, specifically, lawn strippers, whereas Eyth discloses a portable lamp stand. They clearly are not from the same field of endeavor.

As to the problem addressed, Applicants are specifically concerned with providing a user-friendly mechanism for latching a lawn-striper in a raised, inoperative position in which it cannot roll along the ground. Eyth, on the other hand, is concerned with adjusting the angle of an arm of a lamp stand between various operative positions. To state that Eyth is relevant because it and the invention both relate to latch mechanisms is to over broadly characterize the problems being addressed by the invention, just as the Examiner overbroadly stated the problems being addressed in *In re Clay* when he argued that oil storage and oil extraction were concerned with the same problem.

In view of the above arguments, it is believed that claim 29 and claim 34 dependent therefrom are nonobvious over Pugh in view of Eyth. Accordingly, Applicants respectfully requests withdrawal of the rejection and allowance of claim 29.

CONCLUSION

Authorization is hereby given to charge Deposit Account No. 50-1170 in the amount of \$1,020 for the government filing fee by a *large* entity for a 3-month extension of time, which Applicants hereby requests. No additional fee is believed to be payable with this communication. Nevertheless, should the Examiner consider any other fees to be payable in conjunction with this or any future communication, the Director is authorized to direct payment of such fees, or credit any overpayment to Deposit Account No. 50-1170.

The Examiner is invited to contact the undersigned by telephone if it would help expedite matters.

Respectfully submitted,



Timothy Newholm
Registration No. 34,400

Dated: November 1, 2006

BOYLE, FREDRICKSON, NEWHOLM,
STEIN & GRATZ, S.C.
250 Plaza, Suite 1030
250 East Wisconsin Avenue
Milwaukee, WI 53202
Telephone: (414) 225-9755